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The French Declaration of The Rights of Man and of the Citizen

And

The American Bill of Rights

A Bicentennial Commemoration 1789-1989

S920-13

Senate Document 101-9

The French Declaration of The Rights of Man and of the Citizen

And

The American Bill of Rights

A Bicentennial Commemoration
Issued Pursuant to S.J. Res. 317, 100th Congress

Foreword

This year marks the bicentennial of the opening chapter of the French Revolution and the closing chapter of the American Revolution. In this bicentennial year, it is fitting for us to celebrate the shared commitment to human rights and human liberty that has shaped the destinies of the people of France and the United States.

On America's 100th birthday the people of France gave the American people the Statue of Liberty in recognition of the role the American Revolution played in unleashing the spirit of liberty around the globe. On this two hundredth birthday year of the French Revolution, I think it is fitting for the people of the United States to remember the important contributions that France and her citizens have made to the cause of human rights and human liberty.

Nowhere is our shared commitment to human rights and human liberty more clearly expressed than in the French Declaration of the Rights of Man and of the Citizen and the American Bill of Rights. These testaments to human rights, which were both adopted in the summer of 1789, have served as a beacon of hope to people around the world.

Last year the Congress adopted a resolution commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen. That resolution called for the preparation of a document containing the French Declaration of the Rights of Man and of the Citizen and the American Bill of Rights, together with historical notes that reveal the important links that gave rise to both documents. As former Senator Charles McC. Mathias, who is Chairman of the American Committee on the French Revolution, has said:

> The American Revolution began with "a shot heard around the world." In the same way, the French Revolution changed more than France. The world is a different place because of these two events which have many common roots in the ideas and philosophies that ignited them. It is difficult to fully comprehend either one without a recognition of the other.

It is my hope that this document will help us all to comprehend more fully the many common roots that gave rise to the French and American revolutions, and to the Declaration of the Rights of Man and of the Citizen and the Bill of Rights.

Claiborne de Borda Pell, *Chairman*
Committee on Foreign Relations
United States Senate

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(Submitted by Senator Pell, of Rhode Island, and Senator Lugar, of Indiana)

S. J. Res. 317

One Hundredth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fifth day of January, one thousand nine hundred and eighty-eight

Joint Resolution

Commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen.

Whereas the Treaty of Commerce and Amity concluded February 6, 1778, between France and the United States was the first alliance entered into by the United States;

Whereas the independence of the United States was achieved with significant assistance from France and from individual citizens of France;

Whereas the ideals of liberty and freedom which animated the people of the United States during the American Revolution were shared by many of the people of France and are held sacred by both peoples today;

Whereas the year 1789 was of particular significance in the history of both France and the United States, marking the opening chapter of the French Revolution and the concluding chapter of the American Revolution;

Whereas within a period of 31 days, the National Assembly of France approved the Declaration of the Rights of Man and of the Citizen on August 26, 1789, and the Congress of the United States approved the Bill of Rights on September 25, 1789, thereby proclaiming the sanctity of human rights on both sides of the Atlantic Ocean and guaranteeing them for future generations;

Whereas the Government of France has established a Commission for the Bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen; and

Whereas an American Committee on the French Revolution has been organized to plan an appropriate commemoration in the United States of the bicentennial of the historic events of 1789 and of the shared aspirations, ideals, and experiences of the French and American peoples: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress and people of the United States extend to the people of France an expression of friendship and high regard on the occasion of the bicentennial of the French Revolution.

(b) The Congress hereby—

(1) urges the people of the United States to observe the bicentennial of the French Revolution as may be appropriate to the occasion; and

(2) finds with pride and satisfaction that France and the United States remain fully committed to the principles of the Declaration of the Rights of Man and of the Citizen, and the Bill of Rights, respectively.

(c)(1) There shall be printed as a Senate document during the bicentennial year 1989 the Declaration of the Rights of Man and of the Citizen, and the Bill of Rights, with accompanying historical notes, including

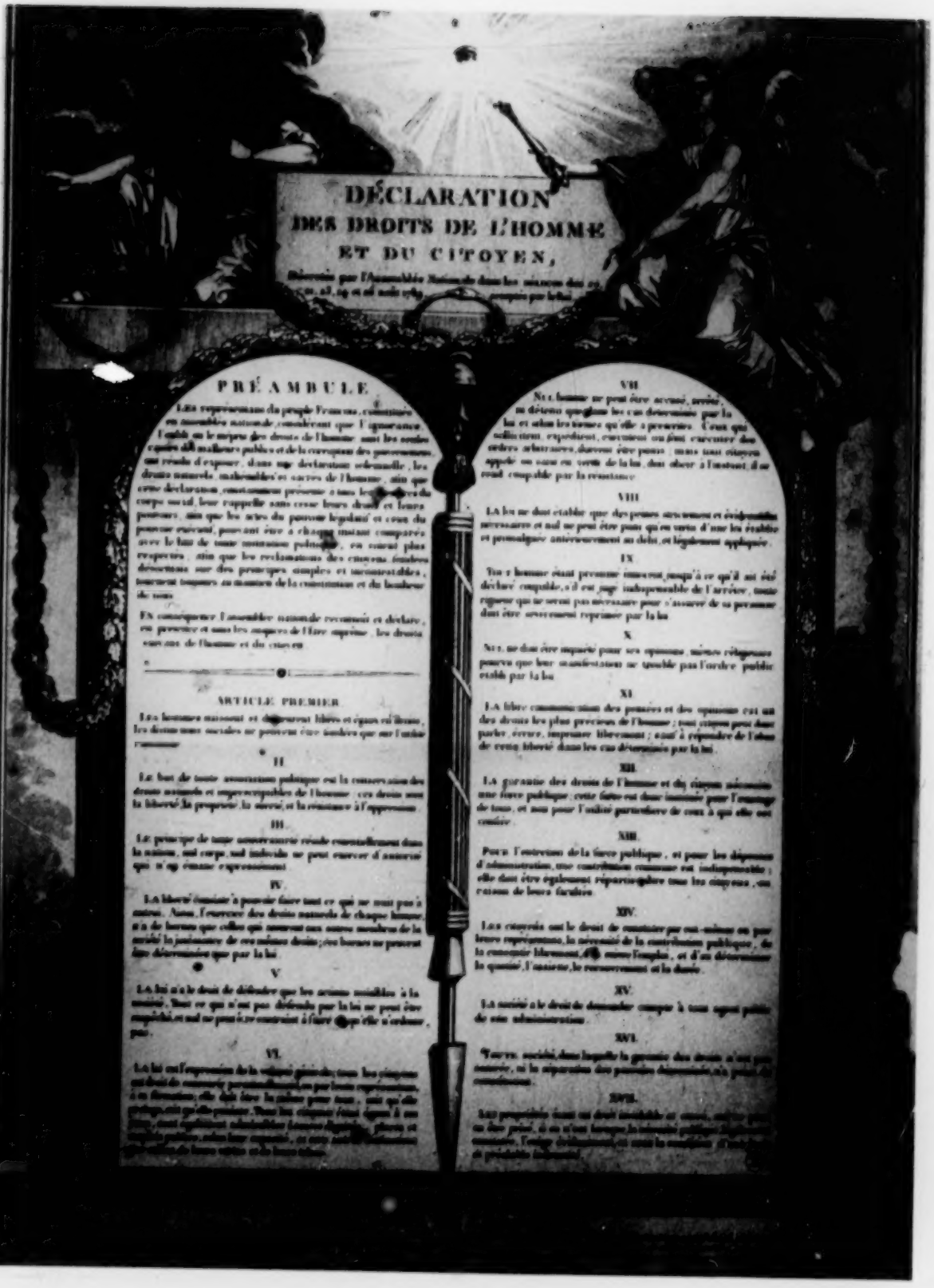
(2) bound volumes suitable for presentation to the President of the French Republic, the President of the Senate of France, and the President of the National Assembly of France.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.

President of the United States.

Approved October 11, 1988, Public Law 100-482.



DÉCLARATION
DES DROITS DE L'HOMME
ET DU CITOYEN,

Décrétée par l'Assemblée Nationale dans les séances des 20, 21, 23 et 26 août 1789, acceptée par le Roi

PRÉAMBULE

Les représentans du peuple Français, constitués en assemblée nationale, considérant que l'ignorance, l'oubli ou le mépris des droits de l'homme sont les seules causes des malheurs publics et de la corruption des gouvernemens, ont résolu d'exposer, dans une déclaration solennelle, les droits naturels, inaliénables et sacrés de l'homme, afin que cette déclaration, constamment présente à tous les membres du corps social, leur rappelle sans cesse leurs droits et leurs pouvoirs, afin que les actes du pouvoir législatif et ceux du pouvoir exécutif, pouvant être à chaque instant comparés avec le but de toute institution politique, en soient plus respectés, afin que les réclamations des citoyens, fondées désormais sur des principes simples et incontestables, tournent toujours au maintien de la constitution et du bonheur de tous.

En conséquence l'assemblée nationale reconnoît et déclare, en présence et sous les auspices de l'Être suprême, les droits suivans de l'homme et du citoyen.

ARTICLE PREMIER

Les hommes naissent et demeurent libres et égaux en droits; les distinctions sociales ne peuvent être fondées que sur l'utilité commune.

II

Le but de toute association politique est la conservation des droits naturels et imprescriptibles de l'homme; ces droits sont la liberté, la propriété, la sûreté, et la résistance à l'oppression.

III

Le principe de toute souveraineté réside essentiellement dans la nation, nul corps, nul individu ne peut exercer d'autorité qui n'en émane expressément.

IV

La liberté consiste à pouvoir faire tout ce qui ne nuit pas à autrui. Ainsi, l'exercice des droits naturels de chaque homme n'a de bornes que celles qui assurent aux autres membres de la société la jouissance de ces mêmes droits; ces bornes ne peuvent être déterminées que par la loi.

V

La loi n'a le droit de défendre que les actions nuisibles à la société. Tout ce qui n'est pas défendu par la loi ne peut être empêché, et nul ne peut être contraint à faire ce qu'elle n'ordonne pas.

VI

La loi est l'expression de la volonté générale; tous les citoyens ont droit de concourir personnellement, ou par leurs représentans, à sa formation; elle doit être la même pour tous, soit qu'elle protége, soit qu'elle punisse. Tous les citoyens étant égaux à ses yeux, sont également admissibles à toutes dignités, places et emplois publics, selon leur capacité, et sans autre distinction que celle de leurs vertus et de leurs talens.

VII

Nul homme ne peut être accusé, arrêté, ni détenu que dans les cas déterminés par la loi, et selon les formes qu'elle a prescrites. Ceux qui sollicitent, expédient, exécutent ou font exécuter des ordres arbitraires, doivent être punis; mais tout citoyen appelé ou saisi en vertu de la loi, doit obéir à l'instant; il se rend coupable par la résistance.

VIII

La loi ne doit établir que des peines strictement et évidemment nécessaires, et nul ne peut être puni qu'en vertu d'une loi établie et promulguée antérieurement au délit, et légalement appliquée.

IX

Tout homme étant présumé innocent, jusqu'à ce qu'il ait été déclaré coupable, s'il est jugé indispensable de l'arrêter, toute rigueur qui ne seroit pas nécessaire pour s'assurer de sa personne doit être sévèrement réprimée par la loi.

X

Nul ne doit être inquiété pour ses opinions, même religieuses, pourvu que leur manifestation ne trouble pas l'ordre public établi par la loi.

XI

La libre communication des pensées et des opinions est un des droits les plus précieux de l'homme; tout citoyen peut donc parler, écrire, imprimer librement; sauf à répondre de l'abus de cette liberté dans les cas déterminés par la loi.

XII

La garantie des droits de l'homme et du citoyen nécessite une force publique; cette force est donc instituée pour l'avantage de tous, et non pour l'utilité particulière de ceux à qui elle est confiée.

XIII

Pour l'entretien de la force publique, et pour les dépenses d'administration, une contribution commune est indispensable; elle doit être également répartie entre tous les citoyens, en raison de leurs facultés.

XIV

Les citoyens ont le droit de constater par eux-mêmes ou par leurs représentans, la nécessité de la contribution publique, de la consentir librement, d'en suivre l'emploi, et d'en déterminer la quotité, l'assiette, le recouvrement et la durée.

XV

La société a le droit de demander compte à tout agent public de son administration.

XVI

Toute société dans laquelle la garantie des droits n'est pas assurée, ni la séparation des pouvoirs déterminée, n'a point de constitution.

XVII

La propriété étant un droit inviolable et sacré, nul ne peut en être privé, si ce n'est lorsque la nécessité publique, légalement constatée, l'exige évidemment, et sous la condition d'une juste et préalable indemnité.

Declaration of the Rights of Man and of the Citizen [1789]

Adopted by the National Assembly during the French Revolution on August 26, 1789, and reaffirmed by the constitution of 1958

Preamble

The representatives of the French People, formed into a National Assembly, considering ignorance, forgetfulness or contempt of the rights of man to be the only causes of public misfortunes and the corruption of Governments, have resolved to set forth, in a solemn Declaration, the natural, unalienable and sacred rights of man, to the end that this Declaration, constantly present to all members of the body politic, may remind them unceasingly of their rights and their duties; to the end that the acts of the legislative power and those of the executive power, since they may be continually compared with the aim of every political institution, may thereby be the more respected; to the end that the demands of the citizens, founded henceforth on simple and uncontestable principles, may always be directed toward the maintenance of the Constitution and the happiness of all.

In consequence whereof, the National Assembly recognizes and declares, in the presence and under the auspices of the Supreme Being, the following Rights of Man and of the Citizen.

Article first

Men are born and remain free and equal in rights. Social distinctions may be based only on considerations of the common good.

Article 2

The aim of every political association is the preservation of the natural and imprescriptible rights of man. These rights are Liberty, Property, Safety, and Resistance to Oppression.

Article 3

The source of all sovereignty lies essentially in the Nation. No corporate body, no individual may exercise any authority that does not expressly emanate from it.

Article 4

Liberty consists in being able to do anything that does not harm others: thus, the exercise of the natural rights of every man has no bounds other than those that ensure to the other members of society the enjoyment of these same rights. These bounds may be determined only by Law.

Article 5

The Law has the right to forbid only those actions that are injurious to society. Nothing that is not forbidden by Law may be hindered, and no one may be compelled to do what the Law does not ordain.

Article 6

The Law is the expression of the general will. All citizens have the right to take part, personally or through their representatives, in its making. It must be the same for all, whether it protects or punishes. All citizens, being equal in its eyes, shall be equally eligible to all high offices, public positions and employments, according to their ability, and without other distinction than that of their virtues and talents.

Article 7

No man may be accused, arrested or detained except in the cases determined by the Law, and following the procedure that it has prescribed. Those who solicit, expedite, carry out, or cause to be carried out arbitrary orders must be punished; but any citizen summoned or apprehended by virtue of the Law, must give instant obedience; resistance makes him guilty.

Article 8

The Law must prescribe only the punishments that are strictly and evidently necessary; and no one may be punished except by virtue of a Law drawn up and promulgated before the offense is committed, and legally applied.

Article 9

As every man is presumed innocent until he has been declared guilty, if it should be considered necessary to arrest him, any undue harshness that is not required to secure his person must be severely curbed by Law.

Article 10

No one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established Law and Order.

Article 11

The free communication of ideas and of opinions is one of the most precious rights of man. Any citizen may therefore speak, write and publish freely, except what is tantamount to the abuse of this liberty in the cases determined by Law.

Article 12

To guarantee the Rights of Man and of the Citizen a public force is necessary; this force is therefore established for the benefit of all, and not for the particular use of those to whom it is entrusted.

Article 13

For the maintenance of the public force, and for administrative expenses, a general tax is indispensable; it must be equally distributed among all citizens, in proportion to their ability to pay.

Article 14

All citizens have the right to ascertain, by themselves, or through their representatives, the need for a public tax, to consent to it freely, to watch over its use, and to determine its proportion, basis, collection and duration.

Article 15

Society has the right to ask a public official for an accounting of his administration.

Article 16

Any society in which no provision is made for guaranteeing rights or for the separation of powers, has no Constitution.

Article 17

Since the right to Property is inviolable and sacred, no one may be deprived thereof, unless public necessity, legally ascertained, obviously requires it, and just and prior indemnity has been paid.

The French Declaration of The Rights of Man and of the Citizen

Designed as a preamble to the constitution still under preparation in 1789 by the National Constituent Assembly, the French Declaration of the Rights of Man and of the Citizen summarized a large amount of Western thought concerning the individual and the individual's personal freedom in civil society. Evolving from the Estates General meeting at Versailles in the spring of 1789 to address growing unrest in France, the Constituent Assembly initially convened in late June of 1789. The idea of a written declaration of human rights was under discussion in various sectors of French society during these early months.

On July 6, the Constituent Assembly established a committee to set the agenda for the drafting of a constitution and selected 30 of its members to serve on this panel. A report on behalf of the committee three days later recommended that a declaration of rights should be prepared and attached to the constitution as an inseparable preamble to the text. Also, a somewhat elaborate plan was proposed for facilitating discussion of constitution articles within the Assembly's 30 bureaus. Adopting this proposal, the Assembly created a coordinating committee of eight members to distill the bureau deliberations. Subsequently, on July 27, the chairman of the coordinating committee initiated a debate in the Assembly when he inquired about the type of rights declaration being sought by the membership. After considering the relationship of the declaration to the constitution, the content of such a statement, and the merits and demerits of such instruments, the Assembly agreed on August 4 that plans should proceed with the drafting of a short delineation of rights which would become a preamble to the constitution.

Dissatisfaction with the slow pace of the drafting effort, however, resulted in the creation of still another committee. Mandated on August 14, this panel of five members was to collect and review all available draft declarations, produce an agreed upon model, and present it within three days to the Assembly for consideration and approval. When the committee of five made its offering on August 17, the proposal was greeted with rejection and a lengthy debate ensued. A new course was then chosen: the whole Assembly would review the existing drafts and vote, article by article, upon the composition of the final declaration. The task was begun on August 20 and completed six days later when the Assembly, on August 26, approved the final content of the declaration. After undergoing some restyling, text rearrangement, and editing, the Declaration of the Rights of Man and of the Citizen was accepted by Louis XVI on October 5, 1789. It was later given modern-day reaffirmation by the French Constitution of 1958.

Congress of the United States

begun and held at the City of New-York, on
Wednesday the Fourth of March, one thousand seven hundred and eighty nine

THE Conventions of a number of the States having at the Time of their adopting the Constitution, expressed a Desire, in order to prevent misconstruction or abuse of its Powers, that further declaratory and restrictive Clauses should be added: And as extending the Ground of public Confidence in the Government, will best ensure the beneficent ends of its Institution.

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States, all or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution, viz.*

ARTICLES in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

Article the first. After the first enumeration required by the first Article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

Article the second. No Law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

Article the third. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Article the fourth. A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

Article the fifth. No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Article the sixth. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article the seventh. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of War or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Article the eighth. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.

Article the ninth. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Article the tenth. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article the eleventh. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Article the twelfth. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ATTEST,

Frederick Augustus Muhlenberg Speaker of the House of Representatives

John Adams, Vice President of the United States, and President of the Senate

John Beckley, Clerk of the House of Representatives

Sam.A. Otis Secretary of the Senate.

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*EXPLANATORY NOTES: On September 25, 1789, the Congress proposed twelve articles of amendment to the Constitution of the United States. Except for the first two, they were ratified by the required number of States by December 15, 1791, and these became the first ten amendments. They have since been known as the Bill of Rights. The original is not legible in several places and this copy has been retouched for legibility.

The articles in brief are: ARTICLE I—Regulating the number of Representatives according to the population of the State. ARTICLE II — Senators and Representatives cannot increase their salaries during their present term of office. ARTICLE III — Freedom of religion; Freedom of speech; Freedom of the press; Freedom of assembly; Right to petition the government for redress of grievances. ARTICLE IV — Right to keep and bear arms, since a well regulated militia is necessary for the security of a free State. ARTICLE V — No soldier to be quartered in any house in time of peace unless with the consent of the owner. ARTICLE VI — Freedom from unreasonable search and seizure. ARTICLE VII — Provisions concerning prosecution, trial and punishment; Just compensation for property taken for public use. ARTICLE VIII — Right to speedy and public trial, and provisions for its procedure. ARTICLE IX — Right of trial by jury. ARTICLE X — Excessive bail or fines and cruel punishment prohibited. ARTICLE XI — All rights to be retained by the people except those regulated in the Constitution. ARTICLE XII — The powers reserved to the States or to the people.

Articles in addition to, and amendment of, The Constitution of the United States of America, proposed by Congress, and ratified by the legislatures of the several states pursuant to the fifth article of the original Constitution.

The first 10 amendments to the Constitution, and 2 others that failed of ratification, were proposed by the Congress on Sept. 25, 1789. They were ratified by the following states, and the notification of the ratification by the governors thereof were successively communicated by the President to the Congress: New Jersey, Nov. 20, 1789; Maryland, Dec. 19, 1789; North Carolina, Dec. 22, 1789; South Carolina, Jan. 19, 1790; New Hampshire, Jan. 25, 1790; Delaware, Jan. 28, 1790; New York, Feb. 24, 1790; Pennsylvania, March 10, 1790; Rhode Island, June 7, 1790; Vermont, Nov. 3, 1791; and Virginia, Dec. 15, 1791.

Ratification was completed on Dec. 15, 1791.

The amendments were subsequently ratified by Massachusetts, March 2, 1939; Georgia, March 18, 1939; and Connecticut, April 19, 1939.

Congress of the United States

Begun and held at the City of New York, on Wednesday the fourth of March, one thousand seven hundred and eighty nine.

The Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best insure the benificent ends of its institution.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution.

Articles in addition to, and amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

Article I*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Article II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Article III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

*The first two articles of the proposed twelve amendments were not ratified by the States. Article I dealt with apportionment of Representatives to the Congress. Article II provided that Senators and Representatives could not benefit from legislation affecting their compensation until an election had intervened.

Article IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Article VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence.

Article VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Article VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Article X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The American Bill of Rights

Originally believing a bill of rights to the Constitution to be superfluous and even dangerous if some rights were accidentally omitted, James Madison later became its principal draftsman and congressional champion. After the Constitution was ratified and the new Federal Government had begun operations, many of the Nation's leaders knew that a bill of rights would have to be appended to the new charter. In his first annual message to Congress, President George Washington noted the widespread demand for such amendments, but he declined to offer "particular recommendations on this subject."

Thus, it fell to the Nation's legislators to determine what to do on the matter. On May 4, 1789, Madison announced his intention "to bring on the subject of amendments to the constitution" three weeks later. Continued debate in the House of Representatives on import and tonnage duties eclipsed his effort for May 25, but he was subsequently successful in offering his proposals on June 8. Moreover, his move effectively quashed attempts to initiate a second Federal convention to prepare a bill of rights.

Six weeks elapsed before the House took action on Madison's amendments. They were referred to a select committee, which reported them in stylistically improved form to the full House on July 28. The chamber debated the proposals between August 13 and August 24. On this latter date, the House adopted the amendments as a series of separate articles to be added at the end of the Constitution.

The House-passed version of the rights amendments was read in the Senate on August 25, but was not considered until September 2. Meeting in secret, the Senate approved the proposals on September 9, but they were now noticeably different from the original House model: 17 articles had been collapsed to 12 and their language was tighter and otherwise substantially improved.

Receiving the new version of the articles of amendment on September 10, the House called for a conference with the Senate on September 21. The conferees' report was subsequently accepted by the House on September 24 and by the Senate the following day.

On October 2, 1789, President Washington officially transmitted the proposed articles of amendment to the States for ratification. Later, on March 1, 1792, Secretary of State Thomas Jefferson apprised the Governors of the several States that three-fourths of the State legislatures had ratified ten articles out of the dozen offered. Failing approval was the first article, setting a formula for the proportion of the population to be represented by members of the House, and the second article, providing that any law varying the salary of Members of Congress would not become effective "until an election of Representatives shall have intervened." In fact, the ratified amendments became part of the Constitution on December 15, 1791, when Virginia completed action on them. For 200 years, these first ten amendments have been popularly known as the Bill of Rights.

Historical Notes

Two of the world's greatest statements of human rights were legislated within a month of each other in 1789. In France, the newly established National Constituent Assembly adopted the *Declaration of the Rights of Man and of the Citizen* on August 26, 1789. The king, Louis XVI, sanctioned this statement of general principles in early October. Later, when the Constituent Assembly completed work on a constitution on September 3, 1791, the principles of the Declaration became part of the preamble.

In America, the new Federal Constitution, generated by a special convention in Philadelphia in 1787, was duly ratified by the requisite nine States by June of 1788. The charter's lack of a bill of rights, however, soon proved to be the strongest argument of the opponents of ratification. Consequently, proponents of the Constitution, known as Federalists, pledged themselves to subsequent amendments to protect civil liberties when the new government went into operation. By April of 1789, both Houses of the Federal Congress were organized and began functioning. In a long and masterful speech on June 8, before a largely apathetic House of Representatives, James Madison, who earlier had thought a bill of rights was not necessary, offered amendments he had culled largely from State constitutions and State ratification proposals. Twelve amendments were approved by Congress. They were submitted to the States on October 2, 1789, for ratification. Subsequently, ten of those amendments were affirmed by the requisite 11 States and they, known collectively as the *Bill of Rights*, became part of the Constitution on December 15, 1791.

Both the American Bill of Rights and the French Declaration stand in a tradition of expressions of human rights, each borrowing from that tradition and contributing to it.

The American Experience

Citizen protections and immunities are the central objective of the human rights tradition, as is the dignity of the individual and his or her equality with all others in the society. Certainly many of these values are of ancient lineage, but among the charters of human rights, the Magna Carta of 1215 provides a near-modern exemplar. Resting upon it are the Petition of Right of 1628 and the Habeas Corpus Act of 1679. A decade later came the English Bill of Rights, sometimes hailed as "the second Magna Carta." While its reputation as a precursor of the American Bill of Rights may be somewhat inflated, the importance of the English Bill of Rights in the American colonies can be discerned from the frequency with which intractable American editors reprinted it and the extent to which the States drew upon it when framing their first constitutions.

"Almost from the beginning," observes New York University law professor Bernard Schwartz, "the colonists became endowed with the two essentials of the English Constitution: a representative legislative assembly and a recognition of the basic rights of Englishmen." This recognition occurred in the colonial charters and, notes Schwartz, "had a profound influence on American constitutional ideas." Moreover, through their assemblies, the colonists developed fundamental laws reinforcing their basic rights as Englishmen.

The colonists were also quick to defend charters and the liberties they preserved. In Massachusetts, as early as 1664, able-bodied men rebuffed an attempt by London to replace their charter with a commission to "regulate" New England. The charter was secured in safe hands; the harbor fort was manned for resistance; and the King was petitioned to let "laws and liberties live." A similar incident occurred in 1681. Three years later, when the charter actually was withdrawn, the opposition was sufficient that a new charter was granted in 1691. As late as 1774, as the fires of independence were being kindled, Massachusetts judges impeached by the colonial House of Representatives found themselves charged with "high crimes and misdemeanors, and . . . a conspiracy against the charter liberties of the people."

An equal commitment to the basic rights of Englishmen and the preservation of those rights in colonial charters seems to have prevailed throughout the colonies.

In his comprehensive documentary history of the American Bill of Rights, Professor Schwartz comments that colonial charters and enactments "were far more explicit than the comparable documents in English history in providing protection for specific individual rights. By the end of the colonial period," he writes, "many of the rights guaranteed in the Federal Bill of Rights were already expressly safeguarded in Charters and enactments." These included freedoms to exercise religious preference and speech and petition at public meetings, as well as rights to not have soldiers quartered in private homes, to grand jury indictment, against double jeopardy, to due process, to not have private property taken without just compensation, to a public trial, to witnesses and counsel at trial, to trial by jury, to bail, and against cruel and unusual punishments.

This impressive array of human rights variously appeared in colonial charters and fundamental laws, the majority of which were drawn up before the appearance of the English Bill of Rights of 1689. However, none of these, including the English Bill of Rights, was actually a constitution. Parliamentary enactments could be modified or repealed by the legislators; colonial charters could be changed by the Crown or Parliament. Indeed, the flames of revolution would be fed by a growing dispute over the institutional status of the colonies—were they corporations existing at the pleasure of Parliament or, as they asserted, sovereign states?

"The constitutional development during the Revolutionary period," comments Professor Schwartz, "may be summarized as a movement from the British to the American conception." In the aftermath, with the elimination of royal authority, the newly independent States sought fresh organic charters to structure their governments and, equally important, preserve the human rights of the citizenry. "Now," writes Professor Schwartz, "specific guarantees of fundamental personal rights were expressly included in written Constitutions vested with the status of supreme law, and binding as such upon those exercising governmental power."

At the Constitutional Convention in Philadelphia, the question of a bill of rights in the new Federal charter did not arise until the final days of the gathering. As the weary delegates were about to adopt, engross, and sign the finished document on September 12, 1787, George Mason of Virginia remarked that he "wished the plan had been prefaced by a Bill of Rights." He offered no argument for the creation of such a statement of principles and made no motion for the adoption of one. Elbridge Gerry of Massachusetts proposed that a committee be created to draft a bill of rights, and Mason seconded his move. However, voting by States, without prior debate by the delegates, the motion was unanimously defeated. Why? Although no delegate to the convention opposed a bill of rights in principle, most of them believed it was an unnecessary addition: Congress could exercise only enumerated powers or powers necessary to carry out those specified. A bill of rights seemingly protected against something that could not occur—congressional regulation of human freedoms.

The honor of being the first State to ratify the Constitution went to Delaware, which gave approval on December 7, 1787. Pennsylvania was the next to concur, but Antifederalist opposition was considerable and one of their objections was the absence of a bill of rights in the new Constitution. The sixth State to ratify, Massachusetts, was the first to offer, along with its consent, certain recommended amendments, two of which—the guarantees of jury trial in civil suits and grand jury indictment—were appropriate for a bill of rights. Subsequently, New Hampshire, Virginia, New York, and North Carolina recommended comprehensive bills of rights in giving approval to the Federal charter. The last of these, North Carolina, at first withheld ratification until certain amendments, including a bill of rights, were incorporated in the Constitution, but then gave approval on November 21, 1789, after the Federal Congress had completed action on Madison's amendments and submitted them to the States.

Drawing upon rights provisions of the State constitutions and the proposals of the State ratification conventions, Madison introduced his bill of rights amendments to the Constitution in the House of Representatives on June 8, 1789. Six weeks later, at Madison's instigation, the House returned to his proposals and referred them to a select committee, consisting of a Member from each State and chaired by John Vining of Delaware. Madison was among those included on the panel. Acting quickly, the committee reported the amendments a week later on July 28. Certain stylistic changes were in evidence and the language of the amendments was more direct. On August 3, Madison once again stirred his colleagues, asking that his amendments be made the order of business for August 12. Debate on the proposals actually began the day after the requested date and lasted until August 24. During the opening discussion, Roger Sherman of Connecticut urged Madi-

son to append his amendments as a series of separate articles at the end of the Constitution. Madison sought to insert the language of his amendments into the body of the Constitution. Although Madison's position initially prevailed on this point, it was subsequently overturned on a vote of August 19 in support of Sherman's stance. Three days later, the House completed its debate and referred the amendments to a three-person committee, which included Sherman, to prepare the articles of amendment in the agreed upon style and form. This panel reported the following day, August 24, and the House approved the amendments.

In the Senate, the House-passed version of the rights amendments was read on August 25, but it was not considered until September 2. Details from the Senate debate are not available because Senators met in closed-door sessions in their chamber during its first five years and floor discussion was not officially recorded. The versions of the amendments that were approved by the Senate on September 9 were, however, noticeably different: 17 House articles had been reduced to 12 and their language had been tightened and otherwise substantially improved.

Receiving the modified version of the articles of amendment on September 10, 1789, the House examined the changes on September 19 and 21, and moved on the latter date for a conference with the Senate. For its conferees, the House named Madison, Sherman, and Vining. The conference report was submitted to the House on September 23; on a 37–14 vote, the compromise version was accepted the next day. The Senate concurred on September 25.

On October 2, 1789, President Washington officially transmitted the proposed articles of amendment to the States for ratification. Secretary of State Thomas Jefferson issued an official notice on March 1, 1792, apprising the Governors of the several States that three-fourths of the State legislatures had ratified the Bill of Rights. Unfortunately, because most of the legislatures did not officially record their debate proceedings, there is a poor record of the discussion leading to the adoption of the rights amendments. Even the contemporary newspapers offer little insightful information on the pertinent discourse. Nonetheless, ten articles of amendment were accepted out of a dozen offered, and these have remained in the public mind traditionally as the American Bill of Rights.

The French Experience

Paralleling the American Bill of Rights, the French Declaration of the Rights of Man and of the Citizen constituted a summarization of a large amount of Western thought concerning the individual and the individual's personal freedom in civil society. In this regard, the French Declaration drew its inspiration from many sources, including, among others, various subschools of the Enlightenment and the rights declarations of the American State constitutions. Preeminently, it marked the formal end of the *Ancien Régime*, and it destroyed the groundwork upon which rested divine right and patriarchal monarchy, assertions of social superiority by some, and the claims to economic discrimination and privilege by those made wealthy from feudal and mercantile economic practices.

Although the strongly-argued contentions of the nineteenth-century German scholar Georg Jellinek regarding the origins of the Declaration resulted in long-standing controversy, that dispute has become *passé* with the growing recognition that a variety of intellectual currents and ideas, a multiplicity of influences within the Constituent Assembly, and certain contemporary social and political conditions all contributed to the molding of this great expression of human rights.

The convening of the Constituent Assembly was a response to prevailing conditions and events within the French nation. Almost a century ago, the eminent historian James Harvey Robinson viewed many of these prior developments as being of primary significance for the "demand for a written guaranty of their rights made by all classes of Frenchmen in 1788–89." In May of 1788, for example, the parliament of Paris, in an attempt to save the old tribunals from dissolution, reformulated certain constitutional principles. Among these was the right of each citizen, upon arrest, to be sent immediately before

competent judges—a principle which found its way into the Declaration.

In the spring of 1789 came the flowering of hundreds of *cahiers de doleances* or "registers of grievances." Brought by the elected deputies to the meeting of the Estates General—the predecessor of the Constituent Assembly—these lists of recommendations and complaints were drawn up by the deputies' separate electorates. They not only provide ample evidence of the grievances against the king, but also further indications of human rights desires and expectations. Indeed, notes Professor Robinson, the nobility of Mantes and Meulan called for a "declaration of rights, that is to say, an act by which the representatives of the nation shall proclaim in its name the rights which belong to all men in their quality of reasonable, intelligent being, capable of moral ideas—rights anterior to any social institution." The *cahiers* of the third estate of Nemours not only echoed this plea, but also offered an elaborate draft of a bill of rights, as did a number of others. Thus, conditions and events engendered the idea for and particular elements of a human rights declaration.

Professor Robinson's contemporary, historian Henry E. Bourne, however, considers another thread in the development of the Declaration. "Long before the Revolution began," he writes, "many Frenchmen had carefully studied the constitutions of the new American states." First appearing in 1778, the earliest translated collection included six State constitutions, the Declaration of Independence, the Act of Confederation, and various laws of the Continental Congress. Five years later, a more complete collection was published. Then, between 1784 and 1788, an even better set of State constitutions was produced in the section of the *Encyclopedie Methodique* on "Economie, Politique et Diplomatique" edited by M. Demeunier, who later became a member of the Constituent Assembly. He also published these documents separately in 1786 and 1790 with an accompanying commentary which he authored. "Demeunier, like Condorcet and others," notes Professor Bourne, "felt that one of the greatest contributions the Americans had made to statecraft was the prefixing of a declaration of rights to their constitutions, withdrawing certain things from the field of legislation and guaranteeing the individual against legislative tyranny."

Another assessment of the sources of the Declaration by Professor Sherman Kent, a former Yale University historian and U.S. foreign affairs official, acknowledges the influence of both prevailing conditions and events within the French nation as well as the rights declarations in American State constitutions. Moreover, he also offers some additional intellectual resources. Surveying the studies of several scholars, he allows that the Declaration was affected by the ideas of Montesquieu, Rousseau, Locke, and the Physiocrats, among others. He cautions, however, that such scholars may have "invested the French nation and its representatives at Versailles with a professional appreciation of the nuances of contemporary political theory out of all reason. They have appeared to invest the ordinarily educated Frenchman," he writes, "with perceptions that only the doctors of law and philosophy could have had." Thus, Professor Kent concludes that "the influence which lay behind the Declaration was the influence of several schools of thought, each insufficiently understood or sufficiently misunderstood to make possible its reconciliation with other partially comprehended schools. Attempts to refine on the matter of dominant influence beyond this very unrefined position," he finds, "appear wholly unremunerative."

While debate may continue over the dominant influences shaping the French Declaration, agreement, nonetheless, was quickly reached 200 years ago on the creation of such a statement of human rights. Shortly after the Constituent Assembly convened, a committee of 30 of its members was selected on July 6, 1789 and tasked to fix an agenda for drafting a constitution. Three days later, Jean-Joseph Mounier reported on behalf of the panel, saying that agreement had been reached, and that a declaration of rights should be prepared and attached to the constitution as an inseparable preamble to the text. In order to have the articles of the constitution discussed simultaneously in all 30 bureaus of the Assembly, said Mounier, the committee also sought to create a coordinating committee to distill the bureau discussion. The coordinating panel was subsequently mandated on Bastille Day, July 14, and eight members were named to it. Several days later, on July 27, the chairman of the coordinating committee inquired about the type of declaration sought by the Assembly and made known the existence of two drafts, one of which was prepared by Mounier. Before any action was taken on these models, a summary of the demands of the *cahiers* concerning a declaration was read to the Assembly and Mounier took the floor to read his own draft.

Leaving the question of choice open for the moment, the Assembly elected to enter into discussion about attaching a declaration to the constitution, the content of such a statement, and the merits and demerits of these kinds of instruments. Subsequently, on August 4, almost unanimous agreement was

reached that the committee should proceed with drafting a short declaration which would become a preamble to the constitution.

Then, on August 14, Demeunier, greatly perturbed at the committee's failure to produce a draft declaration, urged the creation of a new special committee to address the matter. This panel would gather and review all available draft declarations, develop an agreed-upon model, and report it to the Assembly by August 17 for consideration and approval. His motion carried and a special committee of five, including Demeunier, was appointed. However, when this panel reported, the Assembly members were not satisfied with what they were offered and a lengthy debate ensued. Still another committee might have been charged with bringing in a draft declaration were it not for the motion that the Assembly, as a whole, review the existing drafts and vote, article by article, upon the composition of the final declaration. This plan was largely executed between August 20 and August 26. Although the Declaration was adopted by the Assembly on this final day of deliberation, the charter underwent subsequent styling, text arrangement, and final editing by the old committee of eight, which was given an extended life for these tasks on September 15. The king, Louis XVI, accepted the Declaration on October 5. It was later reaffirmed by the constitution of 1958.

Influences of the Two Declarations

Much could be said about the historical influence and legacy of the Bill of Rights and the Declaration of the Rights of Man, but it is their status as foundation testaments of human rights that continues to be their most important contribution to world civilization. Historian Crane Brinton remarked some years ago of the French Declaration that it was "the inspiration of most nineteenth century bills of rights in Europe, even in Prussia." He credited it, as well, as being a source for the bills of rights in the Weimar constitution and the Soviet's January, 1918, Declaration of the Rights of Workers and Exploited Peoples.

Among the more recent charters in this tradition is the Universal Declaration of Human Rights, completed by the United Nations Commission on Human Rights in June of 1948 and unanimously adopted by the General Assembly on December 10, 1948. In addition to embodying various civil and political rights, it also includes several so-called economic, social, and cultural rights, including, among others, rights to social security, work, education, and a share in the cultural life of the community.

In 1950, the Council of Europe established the European Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force on September 3, 1953. In 18 articles, it provides for a variety of civil and political rights and freedoms, and creates, as well, two bodies—a European Commission of Human Rights and a European Court of Human Rights—for the interpretation, application, and enforcement of the Convention's principles.

More recently, Canadian citizens obtained a Charter of Rights and Freedoms in the course of the repatriation of the sovereignty of that nation from Great Britain. In 1982, the Dominion of Canada, chartered under the British North America Act of 1867 and long subject to the determinations of the Westminster Parliament, was granted independent status in the Constitution Act. Among the provisions of that statute was a charter of human rights acknowledging "the supremacy of God and the rule of law," and setting forth approximately 30 articles of fundamental freedom.

Indeed, the proclamation of human rights continues, building upon the foundation of the American Bill of Rights and the French Declaration. These are not expressions of abstract potential, but continue to be demands for civility and humanity in the relationships between individuals and political authority. In the past, the denial of human rights has led to revolution and world war; for the future, honoring

these rights offers the prospect of peace and an atmosphere supportive of individual fulfillment. And so, at the two bicentennials, we recall the origins of these testaments as recounted in the words of the American statesman and life-long friend of France, Thomas Jefferson:

> The appeal to the rights of man, which had been made in the United States, was taken up by France, first of the European nations. From her, the spirit has spread over those of the South. The tyrants of the North have allied indeed against it; but it is irresistible. Their opposition will only multiply its millions of human victims; their own satellites will catch it, and the condition of man through the civilized world will be finally and greatly ameliorated. This is a wonderful instance of great events from small causes. So inscrutable is the arrangement of causes and consequences in this world, that a two-penny duty on tea, unjustly imposed in a sequestered part of it, changes the condition of all its inhabitants.

That appeal, that spreading spirit, challenging all of the world in the Eighteenth Century, continues still today.

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